

1 LENARD E. SCHWARTZER
2 2850 S. Jones Blvd., Ste 1
3 Las Vegas, NV 89146
(702) 307-2022

4 Trustee@s-mlaw.com

5 TRUSTEE

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8 UNITED STATES BANKRUPTCY COURT

9 DISTRICT OF NEVADA

10 In re) Case No. BK-S 20-10752-ABL
11 JIMENEZ ARMS, INC.,) IN PROCEEDINGS UNDER CHAPTER 7
12) TRUSTEE'S APPLICATION TO EMPLOY NELLIS
13) AUCTION AS AUCTIONEER, PAY
14 Debtor) COMMISSION AND EXPENSES, AND MOTION
15) TO SELL PERSONALTY AT PUBLIC AUCTION
16) Date: September 17, 2020
Time: 11:00 a.m.
)

17 The Motion of LENARD E. SCHWARTZER, respectfully alleges:

18 1. That he is the duly qualified and acting trustee in the above-entitled estate.

19 2. That among the assets of this estate is property as more particularly described in

20 Exhibit "1", attached hereto and incorporated herein by reference.

21 3. Trustee believes that the value of the items described in Exhibit "1" is approximately
22 \$10,000.00.

23 4. In order to liquidate said assets for the benefit of the creditors, it will be necessary to
24 sell said property.

25 5. From his experience as trustee, Trustee is satisfied that the best and highest net
26 recovery to this estate will arise by selling said property at an auction through the employment and
27 services of a licensed auctioneer.

1 6. The property will be sold online at www.nellisauction.com on September 24, 2020
2 and may be continued or rescheduled as necessary.

3 7. The terms of the sale will be cash or equivalent on the day of sale.

4 8. Trustee desires to employ CRET LLC, doing business as NELLIS AUCTION, a
5 licensed auctioneer, to conduct the sale of the asset in exchange for a commission equal to 25% of
6 the gross receipts of the sale.

7 9. NELLIS AUCTION will pick up the assets, inventory the assets, and store the assets
8 as part of their commission. Further, NELLIS AUCTION will pay all advertising costs and pay all
9 labor associated with the sale of the asset.

10 10. NELLIS AUCTION may charge necessary expenses, including pickup and
11 transportation services, not to exceed \$1,000.00.

12 11. Online auction customers will be charged a 10% buyer's premium for all merchandise
13 purchased through the website, which will be added to the customer's bill as a service charge.

14 12. NELLIS AUCTION is bonded in the amount of \$100,000.00, and the bond is on file
15 in the Office of the United States Trustee.

16 13. The Trustee will file a Report of Sale with this Court after the auction. No further
17 confirmation of sale will be sought.

18 14. The Trustee does not believe there are any liens against the property, however, if any
19 lien is alleged to be perfected, the Trustee would suggest that said lien be deemed transferred to the
20 net proceeds of the sale.

21 15. The Trustee is informed and believes, and therefore alleges, that the granting of this
22 Motion is in the best interest of this estate and accordingly that the Court should approve said
23 employment as provided in 11 U.S.C. Section 327(a).

24 17. The Trustee is informed and believes that said auctioneer is a disinterested person
25 within the meaning of 11 U.S.C. Section 101, does not hold or represent an interest adverse to the
26 Debtor, creditors, any other party in interest, their respective attorneys and accountants, the United
27 States Trustee, or any person employed in the Office of the United States Trustee, and accordingly
28 that it is appropriate to employ said auctioneer under the provisions of 11 U.S.C. Section 327(a).

1 18. The Trustee is informed and believes that said auctioneer is aware of the provisions of
2 11 U.S.C. Section 328 and has agreed, notwithstanding the terms and conditions of employment
3 herein set forth, that the Court may allow compensation different from the compensation provided
4 herein if such terms and conditions prove to have been improvident in light of developments
5 unanticipatable at the time of the fixing of such terms and conditions.\

MEMORANDUM OF LAW

I. Employment of Auctioneer

8 || 11 U.S.C. §327(a) states that:

9 Except as otherwise provided in this section, the trustee, with the court's approval,
10 may employ one or more attorneys, accountants, appraisers, auctioneers, or other
11 professional persons, that do not hold or represent an interest adverse to the estate,
12 and that are disinterested persons, to represent or assist the trustee in carrying out the
13 trustee's duties under this title.

14 The Trustee is informed and believes that the Auctioneer is appropriately qualified and is a
15 disinterested person within the meaning of 11 U.S.C. §101(14), and that the auction terms are
16 reasonable and in the best interest of the estate,

II. Duty of Trustee to Reduce Estate Property to Money

¹⁸ A Chapter 7 trustee's duties are enumerated in 11 U.S.C. § 704, which provides that:

19 The trustee shall--

(1) collect and reduce to money the property of the estate for which such trustee serves, and close such estate as expeditiously as is compatible with the best interests of parties in interest.

11 U.S.C. § 363(b)(1) provides that:

The trustee, after notice and hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.

26 The Trustee believes that auctioning the property is in the best interest of this estate and is the
27 most expeditious and cost-effective method to liquidate these non-exempt assets.

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2 **CONCLUSION**

3 Based on the foregoing, the Trustee respectfully requests that this Motion be granted and that
4 the Trustee be authorized:

5 1. To employ NELLIS AUCTION to take possession and auction Debtor's non-
6 exempt property described in Exhibit "1",
7 2. To sell the property at public online auction free and clear of all liens,
8 3. To pay NELLIS AUCTION an 25% of the gross receipts of the sale.
9 and expenses up to \$1,000.00 after the filing of a report of sale, and to allow
10 NELLIS AUCTION to collect and retain a 10% buyer's premium from
11 purchasers.

12 Dated: August 11, 2020



LENARD E. SCHWARTZER
Trustee

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16 **DECLARATION OF TRUSTEE**

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18 I declare, under penalty of perjury, that the foregoing is true and correct, to the best of my
19 knowledge, information and belief.

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DATED: August 11, 2020



LENARD E. SCHWARTZER

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2 **EXHIBIT 1**
3 **Assets To Be Sold At Auction**

4 Qty Description
5 16 Office chairs
6 5 Office computers
7 1 Computer server
8 1 Dell computer 7214NQ1
9 1 Drafting table
10 8 Filing cabinets
11 1 Gun holster
12 3 Microwave
13 1 Refrigerator
14 3 Bin of miscellaneous office supplies
15 4 Commercial warehouse fans
16 2 Racking sections
17 1 Warehouse lighting- pallet
18 5 White folding tables
19 27 White folding chairs
20 8 Office phones
21 1 Glass display cabinet
22 4 Utility carts
23 6 Flatbed carts
24 4 Sections of lockers
25 3 Work benches
26 2 Office desk with credenza
27 4 Printers
28 1 L-shaped desk
1 1 APC power reserve
2 1 Bookshelf